



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

COPY MAILED

MAY 30 2006

OFFICE OF PETITIONS

In re Patent No. 6,987,066	:	
Issued: 17 January, 2006	:	DECISION ON REQUEST
Application No. 10/602,072	:	FOR RECONSIDERATION OF
Filed: 12 June, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	and
04329.2470-01000	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT" filed 10 February, 2006. Patentee requests that the initial determination of patent term adjustment under 35 U.S.C. § 154(b) be reviewed for accuracy.

The request for correction of the initial determination of patent term adjustment (PTA) is GRANTED. The determination of PTA at the time of the Mailing of the Notice of Allowance is one hundred twelve (112) days.

On 17 January, 2006, the above-identified application matured into U.S. Patent No. 6,987,066, with a revised patent term adjustment of 298 days.

On 10 February, 2006, patentee submitted the instant Notice. Patentee states two Information Disclosure Statements filed 15 April and 20 June, 2005, respectively, as the basis for the request for review of the patent term adjustment. Patentee states that the submissions should be considered for a possible reduction in PTA.

A review of the application history confirms that an incorrect number of days was determined for applicant delay.

37 CFR 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

37 CFR § 1.704(d)(11) provides that:

A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

In this instance, it is noted that the IDS's received on 15 April, 2005, and 20 June, 2005, do not contain the above language in that they do not state that the communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. As such, the IDS's filed on 15 April, 2005, and 20 June, 2005, respectively, are properly considered a failure to engage in reasonable efforts to conclude prosecution.

The appropriate period for reduction of PTA is four (4) months for each submission to the extent that the periods do not overlap. Thus, the total period of reduction for applicant delay is 186 days. (The non-overlapping period being calculated as 66 days from 15 April, 2005, to 20 June, 2005, while the overlapping period is calculated as 120 days from 20 June, 2005, through 17 January, 2006).

In view thereof, the patent should have issued with a revised Patent Term Adjustment of one hundred twelve (112) days.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the \$200.00 application fee under 37 CFR 1.705(b). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ONE HUNDRED TWELVE (112) days.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,987,066 B2
DATED : January 17, 2006
INVENTOR(S) : Shoji Seta et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (298) days

Delete the phrase "by 298 days" and insert – by 112 days--